

MuckRock News
DEPT MR 56191
411A Highland Ave
Somerville, MA 02144-2516
56191-21679940@requests.muckrock.com

FOIA APPEAL

Judge Advocate General (Code 14) [APPEALS]
FOIA Appeal
Suite 3000
1322 Patterson Avenue Southeast
Washington, DC 20374

January 24, 2019

This is a follow up to request number DON-USMC-2018-008971:

I am appealing the denial in its entirety, as the requested documents are NOT located at "https://archive.org/details/texts HQMC" or at "https://www.marines.mil/News/Publications/". While there are historical documents at the latter, there is no list of histories. However, even if the search field constituted a de facto list, it is not complete - the agency must do a search for new records unless it can demonstrate that ALL responsive records have been previously released or exhaustively searched for. The agency is not able to do so.

Filed via MuckRock.com
E-mail (Preferred): 56191-21679940@requests.muckrock.com

For mailed responses, please address (see note):

MuckRock News
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RECEIVE BY (PRINT):

Wendy Winsten

DATE REC.

31 Jan 2019

Signature:

Wendy Winsten

PLEASE NOTE: This request is not filed by a MuckRock staff member, but is being sent through MuckRock by the above in order to better track, share, and manage public records requests. Also note that improperly addressed (i.e., with the requester's name rather than "MuckRock News" and the department number) requests might be returned as undeliverable.

On Jan. 4, 2019:
Please see attached

On Aug. 23, 2018:
I am looking for the most current version of the listing of Marine Corps Historical Publications, Present - 1920, previously published at <http://www.tecom.usmc.mil/HD/General/Publications.htm>.

On Aug. 23, 2018:

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Good Morning,

Personnel at Training Command ask for more specificity as to what you are looking for regarding "studies produced". Personnel there have stated that they don't do "studies."

v/r

Maria E. Gonzalez
FOIA Coordinator
U.S. Marine Corps Installations/
National Capital Region
MCB Quantico
(703) 784-2153

CLASSIFICATION: UNCLASSIFIED

PRIVACY ACT - 1974 AS AMENDED APPLIES

This E-Mail may contain information which must be protected IAW DoD 5400.11 and is For Official Use Only (FOUO). Any misuse or unauthorized disclosure may result in either civil or criminal penalties.

On July 17, 2018:

The FOIA request DON-USMC-2018-008971 has had its Tracking Number changed to DON-USMC-2018-008971. This is normally due to the request being transferred to another agency (for example, EPA to Dept. of Commerce) or to a sub-agency to process it. Additional details for this request are as follows:

- * Old Tracking Number: [REDACTED] DON-USMC-2018-008971
- * New Tracking Number: [REDACTED] DON-USMC-2018-008971
- * Requester Name: [REDACTED] Emma Best
- * Date Submitted: [REDACTED] 07/05/2018
- * Long Description: [REDACTED] Lists, indices or other records that describe or enumerate any historical studies produced or commissioned by the agency's historical staff or various offices/subdivisions. These documents will be used, among other things, to identify individual histories that are of interest to the public, which will then be requested in a separate FOIA request. I am a member of the news media and request classification as such. I have previously written about the government and its activities, with some reaching over 100,000 readers. As such, as I have a reasonable expectation of publication and my editorial and writing skills are well established. In addition, I discuss and comment on the files online and make them available through non-profits such as the Internet Archive and MuckRock, disseminating them to a large audience. While my research is not limited to this, a great deal of it, including this, focuses on the activities and attitudes of the government itself. As such, it is not necessary for me to demonstrate the relevance of this particular subject in advance.

On June 27, 2018:

This message is to confirm your request submission to the FOIAonline application: [View Request](#). Request

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information is as follows:

(<https://foiaonline.regulations.gov:443/foia/action/public/view/request?objectId=090004d2819a2cef>)

* Tracking Number: DON-USMC-2018-008971

* Requester Name: Emma Best

* Date Submitted: 06/27/2018

* Request Status: Submitted

* Description: Lists, indices or other records that describe or enumerate any historical studies produced or commissioned by the agency's historical staff or various offices/subdivisions. These documents will be used, among other things, to identify individual histories that are of interest to the public, which will then be requested in a separate FOIA request. I am a member of the news media and request classification as such. I have previously written about the government and its activities, with some reaching over 100,000 readers. As such, as I have a reasonable expectation of publication and my editorial and writing skills are well established. In addition, I discuss and comment on the files online and make them available through non-profits such as the Internet Archive and MuckRock, disseminating them to a large audience. While my research is not limited to this, a great deal of it, including this, focuses on the activities and attitudes of the government itself. As such, it is not necessary for me to demonstrate the relevance of this particular subject in advance.

On June 16, 2018:

To Whom It May Concern:

Pursuant to the Freedom of Information Act, I hereby request the following records:

Lists, indices or other records that describe or enumerate any historical studies produced or commissioned by the agency's historical staff or various offices/subdivisions. These documents will be used, among other things, to identify individual histories that are of interest to the public, which will then be requested in a separate FOIA request.

I am a member of the news media and request classification as such. I have previously written about the government and its activities, with some reaching over 100,000 readers. As such, as I have a reasonable expectation of publication and my editorial and writing skills are well established. In addition, I discuss and comment on the files online and make them available through non-profits such as the Internet Archive and MuckRock, disseminating them to a large audience. While my research is not limited to this, a great deal of it, including this, focuses on the activities and attitudes of the government itself. As such, it is not necessary for me to demonstrate the relevance of this particular subject in advance.

Additionally, case law states that "proof of the ability to disseminate the released information to a broad cross-section of the public is not required." *Judicial Watch, Inc. v. Dep't of Justice*, 365 F.3d 1108, 1126 (D.C. Cir. 2004); see *Carney v. U.S. Dep't of Justice*, 19 F.3d 807, 814-15 (2d Cir. 1994). Further, courts have held that "qualified because it also had 'firm' plans to 'publish a number of . . . 'document sets'" concerning United States foreign and national security policy." Under this criteria, as well, I qualify as a member of the news media.

Additionally, courts have held that the news media status "focuses on the nature of the requester, not its

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request. The provision requires that the request be "made by" a representative of the news media. Id. § 552(a)(4)(A)(ii)(II). A newspaper reporter, for example, is a representative of the news media regardless of how much interest there is in the story for which he or she is requesting information." As such, the details of the request itself are moot for the purposes of determining the appropriate fee category.

As my primary purpose is to inform about government activities by reporting on it and making the raw data available, I request that fees be waived.

The requested documents will be made available to the general public, and this request is not being made for commercial purposes.

In the event that there are fees, I would be grateful if you would inform me of the total charges in advance of fulfilling my request. I would prefer the request filled electronically, by e-mail attachment if available or CD-ROM if not.

Thank you in advance for your anticipated cooperation in this matter. I look forward to receiving your response to this request within 20 business days, as the statute requires.

Sincerely,

Emma Best

Filed via MuckRock.com
E-mail (Preferred): 56191-21679940@requests.muckrock.com

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UNITED STATES MARINE CORPS
MARINE CORPS INSTALLATIONS NATIONAL CAPITAL REGION
MARINE CORPS BASE QUANTICO
3250 CATLIN AVENUE
QUANTICO, VIRGINIA 22134-5001

IN REPLY REFER TO:
5720
Ser 011/B013

Ms. Emma Best
MuckRock
56191-21679940@requests.muckrock.com

Dear Ms. Best:

Subject: Freedom of Information Act Request DON-USMC-2018-008971

This letter is in final response to your Freedom of Information Act (FOIA) request of June 27, 2018. Your request sought lists, indices or other records that describe or enumerate any historical studies produced or commissioned by the agency's historical staff or various offices/subdivisions.

Information responsive to your request may be accessed online at: <https://archive.org/details/texts/HQMC> and <https://www.marines.mil/News/Publications/>. Please note, the FOIA does not require an agency to provide records that are available to the public.

You may appeal any of the responses or decisions set forth above. If you choose to file an appeal, you must do so within 90 calendar days from the date of this letter. Your appeal must be in writing, signed by you or your representative, and should contain the rationale for the appeal. You may send your appeal via the mail (address below).

Your appeal should be addressed to:

Office of the Judge Advocate General (Code 14)
1322 Patterson Avenue SE
Washington Navy Yard, DC 20374
Phone: (202) 685-5472

For inquiries concerning your request, please contact me, at (703) 784-2153 and reference the FOIA request number in the subject line. If you are unable to reach me, please feel free to contact me at MCBQuanticoFOIA@usmc.mil.

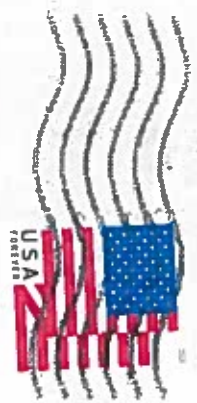
Sincerely,

Maria E. Gonzalez
FOIA Coordinator



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25 JAN 2019 PM 7 L



FOIA APPEAL



20374-506650

